

1 AN ACT

2 relating to certain certifications, professional designations, and  
3 education requirements regarding the sale of life insurance and  
4 annuities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. AGENT EDUCATION REQUIREMENTS

7 SECTION 1.001. Subchapter B, Chapter 1115, Insurance Code,  
8 is amended by adding Section 1115.056 to read as follows:

9 Sec. 1115.056. AGENT EDUCATION REQUIREMENTS. (a) A  
10 resident agent that intends to sell, solicit, or negotiate a  
11 contract for an annuity in this state or to represent an insurer in  
12 relation to such an annuity must submit evidence satisfactory to  
13 the department of completion of at least four hours of training  
14 relating to annuities before soliciting individual consumers for  
15 the purpose of selling annuities.

16 (b) The training required under Subsection (a) may be used  
17 to satisfy the continuing education requirements imposed under this  
18 code and rules adopted under this code for issuance of a license  
19 under this code.

20 SECTION 1.002. Chapter 4004, Insurance Code, is amended by  
21 adding Subchapter E to read as follows:

22 SUBCHAPTER E. CONTINUING EDUCATION REQUIREMENTS FOR SALE OF  
23 ANNUITIES

24 Sec. 4004.201. DEFINITION. In this subchapter, "annuity"

1 has the meaning assigned by Section 1115.002.

2 Sec. 4004.202. REQUIRED CONTINUING EDUCATION REGARDING  
3 ANNUITIES. (a) This section applies to a resident agent who:

4 (1) sells, solicits, or negotiates a contract for an  
5 annuity in this state; or

6 (2) represents or purports to represent an insurer in  
7 relation to such an annuity.

8 (b) Each agent described by Subsection (a) must complete  
9 four hours of continuing education annually that specifically  
10 relates to annuities. The annual period under this section must be  
11 based on the agent's license expiration date or another date  
12 specified by the commissioner by rule, and the education  
13 requirement under this subsection must be met within that annual  
14 period, notwithstanding Section 4004.051(b).

15 (c) The continuing education required under this section  
16 may be used to satisfy the continuing education requirements under  
17 Subchapter B.

18 Sec. 4004.203. PROGRAM CERTIFICATION REQUIREMENTS. (a)  
19 The commissioner by rule shall adopt criteria for continuing  
20 education programs used to satisfy the requirements of Section  
21 4004.202. Those criteria must include:

22 (1) topics related specifically to annuities;

23 (2) state laws and rules related to annuities,  
24 including requirements adopted under Chapter 1115;

25 (3) prohibited sales practices regarding annuities;

26 (4) recognition of indicators that a prospective  
27 insured may lack the short-term memory or judgment to knowingly

1 purchase an annuity; and

2 (5) fraudulent and unfair trade practices regarding  
3 the sale of annuities.

4 (b) Subject matter determined by the commissioner to be  
5 primarily intended to promote the sale or marketing of annuities  
6 does not qualify as continuing education for purposes of this  
7 subchapter.

8 (c) Subchapter C applies to continuing education programs  
9 described by Subsection (a) and training under Section 1115.056.  
10 Any training program disapproved under Subsection (b) shall be  
11 presumed invalid for certification under Subchapter C unless the  
12 program is approved in writing by the commissioner.

13 SECTION 1.003. The commissioner of insurance shall adopt  
14 rules as required by Section 4004.203, Insurance Code, as added by  
15 this article, not later than December 1, 2009.

16 SECTION 1.004. Subchapter E, Chapter 4004, Insurance Code,  
17 as added by this article, applies to continuing education  
18 requirements for insurance agents for a license issued or renewed  
19 on or after April 1, 2010.

20 SECTION 1.005. Section 1115.056, Insurance Code, as added  
21 by this article, applies to training requirements for insurance  
22 agents for a license issued or renewed on or after April 1, 2010.

23 ARTICLE 2. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR  
24 PROFESSIONAL DESIGNATIONS

25 SECTION 2.001. Subtitle A, Title 7, Insurance Code, is  
26 amended by adding Chapter 1117 to read as follows:

1       CHAPTER 1117. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR

2                       PROFESSIONAL DESIGNATIONS

3                               SUBCHAPTER A. GENERAL PROVISIONS

4       Sec. 1117.001. PURPOSE. The purpose of this chapter is to  
5 establish standards to protect consumers from misleading and  
6 fraudulent marketing practices with respect to the use of certain  
7 senior-specific certifications and professional designations in  
8 soliciting the sale or purchase of, or providing advice made  
9 concerning, life insurance or annuity products.

10       Sec. 1117.002. DEFINITIONS. In this chapter:

11               (1) "Insurance agent" means an agent licensed under  
12 this code to sell, solicit the sale of, or negotiate a life  
13 insurance or annuity product.

14               (2) "Senior-specific certification or professional  
15 designation" means a certification or designation that implies that  
16 an insurance agent holds a special certification or has specialized  
17 training in advising or servicing seniors regarding purchasing or  
18 selling a life insurance or annuity product.

19       Sec. 1117.003. APPLICABILITY OF CHAPTER; CONSTRUCTION WITH  
20 OTHER LAW. (a) This chapter applies to any solicitation, sale or  
21 purchase of, or advice made in connection with, a life insurance or  
22 annuity product by an insurance agent.

23               (b) Nothing in this chapter may be construed to limit the  
24 commissioner's authority to enforce any other provision of this  
25 code or another law.

26       [Sections 1117.004-1117.050 reserved for expansion]

1       SUBCHAPTER B. USE OF SENIOR-SPECIFIC CERTIFICATIONS AND

2                               PROFESSIONAL DESIGNATIONS

3       Sec. 1117.051. CERTAIN USES OF SENIOR-SPECIFIC  
4 CERTIFICATIONS AND DESIGNATIONS PROHIBITED. (a) An insurance  
5 agent may not, directly or indirectly, use a senior-specific  
6 certification or professional designation in such a way as to  
7 mislead a purchaser or prospective purchaser that the agent has  
8 special certification or training in advising or servicing seniors  
9 in connection with the solicitation, sale, or purchase of a life  
10 insurance or annuity product or in the provision of advice as to the  
11 value of or the advisability of purchasing or selling a life  
12 insurance or annuity product:

13                   (1) through any writing or other publication; or

14                   (2) by issuing or disseminating analyses or reports  
15 related to a life insurance or annuity product.

16       (b) Subsection (a) prohibits the use of a senior-specific  
17 certification or professional designation only by an insurance  
18 agent using:

19                   (1) a certification or professional designation that  
20 the agent has not actually earned or for which the agent is  
21 ineligible;

22                   (2) a nonexistent or self-conferred certification or  
23 professional designation;

24                   (3) a certification or professional designation that  
25 indicates or implies a level of occupational qualification obtained  
26 through education, training, or experience that the agent has not  
27 obtained; and

1           (4) a certification or professional designation that  
2 was obtained from an organization that:

3           (A) is primarily engaged in the business of  
4 instruction in sales or marketing;

5           (B) does not have reasonable standards or  
6 procedures for:

7                   (i) assuring the competency of individuals  
8 granted a certification or designation by the organization; or

9                   (ii) monitoring and disciplining  
10 individuals granted a certification or designation by the  
11 organization for improper or unethical conduct; or

12           (C) does not have reasonable continuing  
13 education requirements in order to maintain the certification or  
14 designation for individuals granted a certification or designation  
15 by the organization.

16           (c) A rebuttable presumption exists that a certification or  
17 professional designation granted by an organization described by  
18 Subsection (b)(4) is not prohibited under Subsection (a) if the  
19 certification or designation issued by the organization does not  
20 primarily apply to sales or marketing and if the organization or the  
21 certification or designation has been accredited by:

22                   (1) the American National Standards Institute;

23                   (2) the National Commission for Certifying Agencies;

24                   (3) any organization that is included in "Accrediting  
25 Agencies Recognized for Title IV Purposes" published by the U.S.  
26 Department of Education; or

27                   (4) any other national accrediting organization

1 recognized by the commissioner.

2 (d) In determining whether a word, a combination of words,  
3 or an acronym constitutes a senior-specific certification or  
4 professional designation, the commissioner shall consider:

5 (1) the use of one or more words such as "senior,"  
6 "retirement," "elder," or similar words combined with one or more  
7 words such as "certified," "registered," "chartered," "advisor,"  
8 "specialist," "consultant," "planner," or similar words, in the  
9 name of the certification or professional designation; and

10 (2) the manner in which those words are combined.

11 Sec. 1117.052. APPLICABILITY TO CERTAIN FINANCIAL  
12 SERVICES. (a) Notwithstanding Section 1117.003, for purposes of  
13 this chapter, a job title used within an organization that is  
14 licensed or registered by a state or federal financial services  
15 regulatory agency and that indicates seniority or standing within  
16 the organization, or that specifies an individual's area of  
17 specialization within the organization, is not a senior-specific  
18 certification or professional designation unless the title is used  
19 in a manner that is likely to confuse or mislead a reasonable  
20 consumer.

21 (b) For purposes of Subsection (a), "financial services  
22 regulatory agency" includes an agency that regulates insurers,  
23 insurance producers, broker-dealers, investment advisers, or  
24 investment companies, as defined by the Investment Company Act of  
25 1940 (15 U.S.C. Section 80a-1 et seq.).

26 SECTION 2.002. The change in law made by this article  
27 applies only to the solicitation of, sale of, or advice made in

1 connection with, a life insurance or annuity product by an  
2 insurance agent on or after January 1, 2010. The solicitation of,  
3 sale of, or advice made in connection with, a life insurance or  
4 annuity product by an insurance agent before January 1, 2010, is  
5 covered by the law in effect at the time the solicitation or sale  
6 was made or the advice was given, and that law is continued in  
7 effect for that purpose.

8 ARTICLE 3. EFFECTIVE DATE

9 SECTION 3.001. This Act takes effect September 1, 2009.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 1294 was passed by the House on April 28, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1294 on May 23, 2009, by the following vote: Yeas 137, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1294 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor